

PLUME NUMBER AND STATION ADDRESS	OCWD'S ACCRUAL DATES AND SUPPORTING ASSERTIONS	UNDISPUTED FACTS SUPPORTING DEFENDANTS' FURTHER SUPPLEMENTAL MEMORANDUM
		1271:8 – 1273:22). Each of these seven off-site wells Bolin lists had MTBE detections before May 6, 2000, and dating back to 1996: MW-5A, MW-5B, MW-7, MW-9A, MW-9B, MW-10A, and MW-10B. (See OCWD-MTBE-001-182752-65).
Arco #6131 3201 Harbor Blvd. Costa Mesa	13. Claims alleged to accrue on August 2, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an alleged MTBE detection in production well MCWD-5. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	13. The MTBE detection in well MCWD-5 on which OCWD's accrual date is based was at 0.08 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)  Prior to May 6, 2000, MTBE was detected at this station in at least three off-site monitoring wells at levels greater than the California Secondary MCL: B-8, B-9, and B-10, as follows:  MTBE was detected in B-8 beginning on August 22, 1996, at 170 ppb, and was detected in that monitoring well during every quarterly monitoring event through May 6, 2000. (OCWD-MTBE-001-187836-37.) MTBE was detected in B-9 beginning on August 22, 1996 at 65,000 ppb, and was detected in that monitoring well in ten subsequent quarterly monitoring events prior to May 6, 2000. (OCWD-MTBE-001-187837.) MTBE was detected in B-10 on February 4, 1999 at 17 ppb, and was detected in that monitoring well in two monitoring events prior to May 6, 2000. (OCWD-MTBE-001-187838.)
Arco #3083 3470 Fairview	14. a. According to Arco, the underground storage tanks owned	14. Defendants do not dispute the facts cited by the District, and believe that

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Road Costa Mesa	<p>by Arco were removed and the station was demolished in 1986. (Pl.'s 2008 L.R. 56.1 Statement citing O'Reilly Decl., Ex. 4, Arco Interrogatory Response at pp. 21-22.)</p> <p>b. Based on Arco's representation that Arco's underground storage tanks were removed in 1986, the District is prepared to amend its Bellwether Plume designation to delete this station as a potential MTBE source/release. (Pl.'s 2008 L.R. 56.1 Statement.)</p>	<p>this station should be dismissed from the District's lawsuit with prejudice.</p>
Mobil #18-JMY 3470 Fairview Road Costa Mesa	<p>15. Claims alleged to accrue on November 7, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This accrual date is based on an MTBE detection in offsite monitoring well MW-15. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-182420.)</p>	<p>15. The MTBE detection in well MW-15 on which OCWD's accrual date is based was at 4.9 ppb. (Costley 2009 Decl. Ex. 1A.) This number is below the California Secondary MCL and therefore below the level at which OCWD's claims accrued, based on its own criteria. (See Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Moreover, every sampling event in well MW-15 before the alleged November 7, 2001 accrual date, and every sampling event after the alleged accrual date, has been non-detect for MTBE. (OCWD-MTBE-001-182420.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in five off-site wells at levels greater than the California Secondary MCL (with four wells having consistent pre-May 6, 2000 concentration levels): BH-5, MW-14, MW-17, MW-19A, and MW-19B, as follows:</p> <p>MTBE was detected at 5.7 ppb in Well-19A on January 17, 2000, above the Secondary MCL. (OCWD-MTBE-001-182423.) MTBE was detected in</p>

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		<p>BH-5 on May 3, 1994 at 13 ppb, and in all eighteen subsequent MTBE testing events prior to May 6, 2000, with a peak of 200,000 ppb on September 30, 1997. (OCWD-MTBE-001-182410.) MTBE was detected in MW-14 on September 16, 1998 at 14 ppb, and in four of the next six sampling events prior to May 6, 2000, with a peak of 29 ppb. (OCWD-MTBE-001-182419.) MTBE was detected in MW-17 on June 23, 1998 at 1,000 ppb (peak level), and in six of the next seven sampling events prior to May 6, 2000. (OCWD-MTBE-001-182421.) MTBE was detected in MW-19B on June 23, 1998 at 15 ppb (peak level), and in three subsequent sampling events prior to May 6, 2000. (OCWD-MTBE-001-182424.)</p> <p>OCWD acknowledges these pre-May 6, 2000 off-site detections. (OCWD-MTBE-001-192520 ("MTBE and TBA have been detected in off-site well BH-5 . . . since MTBE first detected in 1994").)</p>
<p>Costco 17900 Newhope St. Fountain Valley</p>	<p>16. a. Since identifying this Costco station, the District has determined that the gasoline underground storage tanks were not installed until after the removal of MTBE from gasoline in California. The District is prepared to amend its Bellwether Plume designation to delete this station as a potential MTBE source/release.</p>	<p>16. Defendants do not dispute the fact cited by the District, and believe that this station should be dismissed from the District's lawsuit with prejudice.</p>
<p><b><u>PLUME NO. 3</u></b> <b>OCWD-M-10</b> <b>OCWD-M-11</b> <b>OCWD-M-45</b></p>	<p>17. The District bases its accrual dates for three of the stations in Plume 3 (Arco #1905, Beacon Bay Car Wash, and Thrifty #383) on an alleged MTBE detection in monitoring well OCWD-M10 on</p>	<p>17. Plume 3 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that</p>



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	<p>May 7, 2002. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.) The District bases its accrual date for the remaining station in Plume 3 (Arco #1912) on a detection in an off-site monitoring well at this station.</p>	<p>briefing at ¶¶ 21-28.</p> <p>The District's own interrogatory answers confirm that the May 7, 2002 MTBE detection in OCWD-M10 was not the first detection of MTBE in this well, and that in fact MTBE was first detected in OCWD-M10 on September 12, 1995, at a level of 1 ppb. (Pl.'s Second Supp. Responses to Defs.' Preliminary Interrogatories re Standing Ex. 1A, "Orange County Water District Owned Monitoring Wells" p.5.) The District acknowledged the September 12, 1995 detection in its prior L.R. 56.1 Statement. (Pl.'s 2008 L.R. 56.1 Statement ¶ 21.) MTBE was also detected in OCWD-M10 prior to May 6, 2000 on June 12 1997 at 0.51 ppb and July 7, 1997 at 0.7 ppb (Sartoris 2006 Decl. Ex. 10, pp. 2, 4), and on February 1, 1999 at 0.61 ppb (Finsten 2009 Decl. Ex. 8.)</p>
<p>Arco #1912 18480 Brookhurst St. Fountain Valley</p>	<p>18. Claims alleged to accrue on March 14, 2007. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This accrual date is based on an MTBE detection in offsite monitoring well "W-8" [<i>sic.</i>]. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCHCA-MTBE-043927.)</p>	<p>18. The MTBE detection in well "W-8" on which OCWD's accrual date is apparently based on a detection in well "MW-8" at 7.6 ppb. (Costley 2009 Decl. Ex. 1A.)</p> <p>"MW-8" was constructed in December 1995 to monitor the adjacent Beacon Bay facility. (OCWD-MTBE-001-265197.) BP assumed responsibility for testing this well in 2006, however MTBE was not discovered in this well for the first time on March 14, 2007, the date on which OCWD alleges its claims accrued. (OCWD-MTBE-001-264566.) MTBE was first detected in MW-8 on April 30, 1996 at 64.1 ppb, and was detected at 2,270 ppb in that well on August 15, 1996 (OCWD-MTBE-001-265221.) If a detection in this well triggers accrual at this station,</p>

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		<p>the District's claims at this station are time-barred.</p> <p>Furthermore, prior to May 6, 2000, MTBE was detected at this station in at least three other off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: B-5, E-7, and E-15 (<i>See</i> OCWD-MTBE-001-264547 - 56), as follows:</p> <p>MTBE was detected in E-15 beginning on June 12, 1997 at 440,000 ppb, and was found in that monitoring well in three subsequent sampling events prior to May 6, 2000, at a minimum level of 250,000 ppb. (OCWD-MTBE-001-264556.) MTBE was detected in E-7 beginning on September 23, 1999 at 6.7 ppb, and was detected again on November 8, 1999 and February 12, 2000, each time at levels above 5 ppb. (OCWD-MTBE-001-264553.) MTBE was detected in B-5 beginning on March 14, 1996 at 6,500 ppb, and was detected in that monitoring well on nine separate monitoring events prior to May 6, 2000. (OCWD-MTBE-001-264547 - 48.)</p>
Thrifty #383 18520 Brookhurst St. Fountain Valley	<p>19. Claims initially alleged to accrue on November 19, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the accrual date changed to May 7, 2002. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on an MTBE detection in OCWD monitoring well OCWD-M10. (<i>Id.</i>, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached</p>	<p>19. The MTBE detection in well OCWD-M10 on which OCWD's accrual date is based was at 3 ppb. (Costley 2009 Decl. Ex. 1C.)</p> <p>However, the District's own interrogatory answers confirm that the May 7, 2002 MTBE detection in OCWD-M10 was not the first detection of MTBE in this well, and that in fact MTBE was first detected in OCWD-M10 on September 12, 1995, at a level of 1 ppb. (<i>See</i> ¶ 17 <i>supra</i>.)</p>

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	thereto.)	
Beacon Bay Car Wash 10036 Ellis Ave. Fountain Valley	20. Claims alleged to accrue on May 7, 2002. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on an MTBE detection in OCWD monitoring well OCWD-M10. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	20. The MTBE detection in well OCWD-M10 on which OCWD's accrual date is based was at 3.0 ppb. (Costley 2009 Decl. Ex. 1C.)  However, the District's own interrogatory answers confirm that the May 7, 2002 MTBE detection in OCWD-M10 was not the first detection of MTBE in this well, and that in fact MTBE was first detected in OCWD-M10 on September 12, 1995, at a level of 1 ppb. ( <i>See</i> ¶ 17 <i>supra</i> .)
Arco #1905 18025 Magnolia St. Fountain Valley	21. Claims initially alleged to accrue on May 20, 2002. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the accrual date changed to May 7, 2002. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on an MTBE detection in OCWD monitoring well OCWD-M10. ( <i>Id.</i> , citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	21. The MTBE detection in well OCWD-M10 on which OCWD's accrual date is based was at 3.0 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)  Prior to May 6, 2000, MTBE was detected at this station in two off-site wells at levels greater than the California Secondary MCL: W-26 and W-27, as follows:  MTBE was detected in W-26 on December 2, 1999 at 84 ppb. (AROCWD19505454; OCWD-MTBE-265129.) MTBE was detected in W-27 beginning on December 2, 1999 at 110 ppb, and was found in that monitoring well in the next sampling event prior to May 6, 2000, at a minimum level of 60 ppb. (AROCWD19505455; OCWD-MTBE-265130.)



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		<p>Furthermore, the District's own interrogatory answers confirm that the May 7, 2002 MTBE detection in OCWD-M10 was not the first detection of MTBE in this well, and that in fact MTBE was first detected in OCWD-M10 on September 12, 1995, at a level of 1 ppb. (<i>See</i> ¶ 17 <i>supra</i>.)</p>
<b><u>PLUME NO. 4</u></b> <b>SA-16</b>	<p>22. The District bases its accrual date for one station in Plume 4 (Thrifty #376) on an alleged MTBE detection in production well SA-16 on August 9, 2005. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.) The District bases its accrual dates for the remaining two stations in Plume 4 (Thrifty #008, Unocal #7470) on detections in off-site monitoring wells at these stations.</p>	<p>22. Plume 4 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 29-34.</p>
Thrifty #376 (aka Arco #9740) 801 N. Bristol St. Santa Ana	<p>23. Claims alleged to accrue on August 9, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on a detection in production well SA-16. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)</p>	<p>23. The MTBE detection in well SA-16 on which OCWD's accrual date is based was at 0.13 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in one off-site well at a level greater than the California Secondary MCL: W-8. (<i>See</i> OCWD-MTBE-001-253213-14; AROCWD0974012333.) MTBE was detected in W-8 at a level of 9.4 ppb on</p>

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		June 29, 1999, again at a level of 20 ppb on September 23, 1999, and in the two subsequent testing events prior to May 6, 2000. <i>Id.</i>
Unocal #7470 114 S. Bristol St. Santa Ana	24. Claims initially alleged to accrue on August 16, 2002. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the accrual date changed to March 16, 2004. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on an MTBE detection in offsite monitoring well MW-20. ( <i>Id.</i> , citing SARWQCB-MTBE-028064.)	24. The MTBE detection in well MW-20 on which OCWD's accrual date is based was at 36 ppb. (Costley 2009 Decl. Ex. 1A.)  Prior to May 6, 2000, MTBE was detected at this station in at least three other off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: B-7, B-11, and B-12, as follows:  MTBE was detected in B-7 beginning on October 2, 1998 at 10,000 ppb, and was detected in that monitoring well in all six sampling events prior to May 6, 2000, at a minimum level of 3,600 ppb. (SARWQCB-MTBE-028043 - SARWQCB-MTBE-028044.) MTBE was detected in B-11 on May 2, 2000 at 280 ppb. (SARWQCB-MTBE-028049.) MTBE was detected in B-12 on May 2, 2000 at 5.2 ppb. (SARWQCB-MTBE-028051.)
Thrifty #008 704 N. Bristol St. Santa Ana	25. Claims alleged to accrue on April 8, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on an MTBE detection in offsite monitoring well B-28. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing SARWQCB-MTBE-020071.)	25. The MTBE detection in well B-28 on which OCWD's accrual date is based was at 43 ppb. (Costley 2009 Decl. Ex. 1A.)  Prior to May 6, 2000, MTBE was detected at this station in at least six other off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: BW-9, BW-10, BW-13, BW-14, BW-15, and BW-16, as follows:  MTBE was detected in BW-9 and BW-10 beginning on June 30, 1999 at levels of 570 ppb and 1,000 ppb, respectively,



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		<p>and was detected in BW-9 in two subsequent testing events, and in BW-10 in all three subsequent testing events, prior to May 6, 2000. (SARWQCB-MTBE-020059; AROCWD950610608-9.) MTBE was detected in BW-13 on April 27, 2000 at 26.5 ppb. (AROCWD950610611; SARWQCB-MTBE-020062.) MTBE was detected in BW-14 on January 6, 2000 and April 27, 2000, at levels of 12 ppb and 16 ppb, respectively. (AROCWD950610612; SARWQCB-MTBE-020062.) MTBE was detected in BW-15 and BW-16 beginning on January 6, 2000 at levels of 850 ppb and 8,000 ppb, respectively, and was also detected on April 27, 2000 at levels of 1,240 ppb and 5,680 ppb, respectively. (SARWQCB-MTBE-020063-64; AROCWD950610613-14.)</p> <p>The Regional Water Quality Control Board sent a letter to Thrifty Oil on November 2, 1999, stating "MTBE has migrated off-site in the downgradient direction." (OCWD-MTBE-001-253601.)</p>
<b><u>PLUME NO. 5</u></b>	26. The District bases its accrual date for the station in Plume 5 (Unocal #5356) on an MTBE detection in an off-site monitoring well at this station. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	26. Plume 5 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 35-36.
Unocal #5356 1913 W. Edinger Santa Ana	27. Claims alleged to accrue on July 19, 2002. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on an MTBE detection in monitoring well MW-22. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-252108 and SAFD-	27. The MTBE detection in well MW-22 on which OCWD's date is based was at 840 ppb. (Costley 2009 Decl. Ex. 1D.)
		Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least January 10, 1996 at levels consistently above California's Secondary MCL of 5 ppb,

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	MEBT-03975.)	(See OCWD-MTBE-001-252069 - 121.) Many of these early detections were at extremely high levels. For example, on April 24, 1997, MTBE was detected at MW-9 at 1.9 million ppb, which is 380,000 times the Secondary MCL. (OCWD-MTBE-001-252087; <i>see</i> Costley 2009 Decl. Ex. 1D.) OCWD concedes this detection as well other onsite MTBE detections prior to May 6, 2000. (Bolin Dep. at Ex. 96). Indeed, MW-9 had four MTBE detections at or above 1 million ppb prior to May 6. (OCWD-MTBE-001-252087 - 88.)
<b><u>PLUME NO. 6</u></b> <b>NB-DOLS</b> <b>NB-DOLD</b>	28. The District bases its accrual dates for two stations in Plume 6 (Exxon #3738, Thrifty #085) on two alleged MTBE detections in production well NB-DOLD on August 4, 2000 and August 2, 2005, respectively. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.) The District bases its accrual date for the remaining station in Plume 6 (Arco #6116) on detections in an off-site monitoring well at this station.	28. Plume 6 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 37-42.
Thrifty #085 17475 Brookhurst St. Fountain Valley	29. Claims alleged to accrue on August 2, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in production well NB-DOLD. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental	29. The MTBE detection in well NB-DOLD on which OCWD's date is based was at 0.04 ppb. (Costley 2009 Decl. Ex. 1B.) However, under the District's accrual criteria, accrual may rest on an MTBE detection in a water production well <i>only</i> "[f]or stations where no off-site monitoring wells were installed." (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira